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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,651	06/30/2005	Claudio Bargheer	095309.55687US	3118
23911	7590	09/27/2005	EXAMINER	
CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			JEFFERY, JOHN A	
			ART UNIT	PAPER NUMBER
			3742	

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/517,651

Applicant(s)

BARGHEER ET AL.

Examiner

John A. Jeffery

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20041213
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Substitute Specification Entered***

The examiner has approved and entered the substitute specification filed Dec. 13, 2004.

### ***Title of Invention***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: "Air Supplying Device for Vehicle Seat With Airstream Adjustment Responsive to Motor Vehicle Velocity."

### ***Abstract***

The abstract of the disclosure is objected to because of the following informalities: In line 1, "An" must be inserted before the first word (and first letter of "[a]ir" changed to lowercase). The term "means" in line 6 is legal phraseology and must be changed to plain language for proper format. Correction is required. See MPEP § 608.01(b).

### ***Joint Inventors -- Common Ownership Presumed***

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103, the examiner presumes that the subject matter of the

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various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligations under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103.

***Claim Rejections - 35 U.S.C. § 103(a)***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 8-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bargheer et al. (US 6,786,545) in view of Orizaris et al. (US 6,186,592). Bargheer et al. (US 6,786,545) discloses a vehicle seat air supply device in the upper region of the seat comprising a blower 38 and heating element 40. The temperature and airflow rate of the airstream is controlled by controller 24. Both airflow velocity and heat output are controlled responsive to detected vehicle speed and outside temperature. See col. 1, lines 49-60 and col. 3, lines 23-40.

The claims differ from Bargheer et al. (US 6,786,545) in calling for initially adjusting the airstream to an assigned basic value. But providing such initial airflow adjustments in vehicle seat heaters is well known in the art. Orizaris et al. (US 6,186,592), for example, discloses a vehicle seat air supply apparatus with an initial control of the heater 12 and ventilator 14 in accordance with a predetermined setpoint set by manual adjustment means 27. See col. 3, line 33 – col. 4, line 9. Such an arrangement ensures that the airflow is controlled in accordance with a predetermined temperature and flow rate upon startup. In view of Orizaris et al. (US 6,186,592), it would have been obvious to one of ordinary skill in the art at the time of the invention to initially adjust the airstream to an assigned basic value in the previously described apparatus to ensure that the airflow is controlled in accordance with a predetermined temperature and flow rate upon startup prior to subsequent control responsive to vehicle speed.

Regarding claims 27-30, although Bargheer et al. (US 6,786,545) does not disclose whether the relationship between vehicle speed and airflow velocity is linear or nonlinear apart from increasing the airflow rate responsive to a higher driving speed, no criticality is seen in a linear or non-linear relationship. Moreover, providing such a relationship is a mere optimization of a result-effective variable well within the scope of routine experimentation by skilled artisans. It is well settled that where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation. *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233,235 (CCPA 1955).

### ***Other Pertinent Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant should (1) separately consider the art, and (2) consider the art together with the previously cited prior art for potential applicability under 35 U.S.C. §§ 102 or 103 when responding to this action. US 748, US 807, US 667 disclose vehicle seat air supply systems relevant to the instant invention. US 386, US 481, JP 813, JP 321, JP 508, GB 936 disclose vehicle temperature control systems responsive to vehicle speed.

### ***Conclusion***

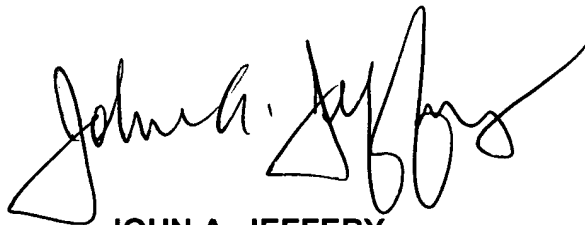
Any inquiry concerning this communication or earlier communications from the examiner should be directed to John A. Jeffery whose telephone number is (571) 272-4781. The examiner can normally be reached on Monday - Thursday from 7:00 AM to 4:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans, can be reached on (571) 272-4777. All faxes should be sent to the centralized fax number at (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "John A. Jeffery". The signature is stylized with a large, looped "J" and a long, sweeping underline.

**JOHN A. JEFFERY**  
**PRIMARY EXAMINER**

**9/22/05**